

## REMARKS

Reconsideration of the present application is respectfully requested.

Claims 14-26 are pending in the application, of which Claims 14, 21, 23 and 25 are written in independent form. In the Office Action, the Examiner rejected Claims 14-26 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent App. Pub. No. 2002/0025815 to *Rune et al.* (hereinafter *Rune*).

Regarding the §102(e) rejection, the Examiner alleged that each and every element of Claims 14-26 is disclosed in *Rune*. Applicants respectfully traverse.

Generally, Claims 14-24 are directed to a channel type switching method for a multimedia broadcast and multicast service (MBMS) point to point (P-t-P) and point to multi point (P-t-M) channel. Claims 25-26 are similarly directed to a data communication channel establishment method for setting up MBMS.

Specifically, Claim 14 recites, *inter alia*, determining in the DRNC, to perform switching channel type between a common channel and a dedicated channel based on a number of users having the MBMS service in the cell. It is respectfully asserted that *Rune*, in contrast, does not concern MBMS, and fails to disclose this determination step, which is “based on a number of users having the MBMS service in the cell.” Likewise, *Rune* fails to disclose notifying the SRNC of the determined MBMS channel type, as further recited in Claim 14, because *Rune* never determines an MBMS channel type. Moreover, *Rune* fails to disclose transmitting MBMS data with the determined channel type to UEs requiring MBMS service, also recited in Claim 14.

Similar recitations to those found in Claim 14 are prevalent in independent Claims 21, 23 and 25, and like Claim 14 *Rune* fails to disclose these recitations. For example, Claim 21 recites *inter alia*, checking a number of UEs in a cell to determine an MBMS channel type, determining the MBMS channel type, and reporting change of the MBMS channel type to an SRNC. It is

respectfully asserted that *Rune* never even determines an MBMS channel type, let alone reports a change of the MBMS channel type.

Claim 23 recites *inter alia*, transmitting an MBMS channel type to the SRNC, notifying at the SRNC a UE that requires MBMS service to reconfigure the MBMS channel type, receiving at the UE the MBMS channel type, and receiving MBMS data on an MBMS channel. *Rune* does not disclose an MBMS channel type, and an MBMS channel is not particularly recited in *Rune*.

Finally, Claim 25 recites *inter alia*, the DRNC sending an MBMS service request message to the CN. It is respectfully asserted that *Rune* does not disclose this step, nor any of the proceeding steps dependent thereon in Claim 25, because *Rune* fails to disclose an MBMS service request message.

In addition, it is respectfully asserted that *Rune* determines a need of a channel switch by an SRNC (step 100-1), but fails to disclose determining whether to switch MBMS channel type based on the number of users having MBMS service in a cell by using a DRNC, as recited in Claim 14. Also, *Rune* fails to disclose that the DRNC notifies the SRNC of the MBMS channel type. In sharp contrast, the request message of step 3-1 in *Rune* is transmitted to DRNC from SRNC, and includes only D-RNTI and cell ID, and only indicates that a channel switch is necessary.

Due to at least the foregoing reasons, it is respectfully submitted that the §102(e) rejection should be withdrawn. Withdrawal of the same is respectfully requested.

Independent Claims 14, 23 and 25 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 15-22, 24 and 26, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 15-22, 24 and 26 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 14-26, are

believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

Paul J. Farrell  
Reg. No. 33,494  
Attorney for Applicant

THE FARRELL LAW FIRM  
333 Earle Ovington Blvd. Suite 701  
Uniondale, New York 11553  
Tel: (516) 228-3565  
Fax: (516) 228-8475

PJF/RCC/dr